United Nations A/62/448

General Assembly

Distr.: General
21 November 2007

Original: English

Sixty-second session
Agenda item 80

Criminal accountability of United Nations officials and experts on mission

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. The item entitled "Criminal accountability of United Nations officials and experts on mission" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/29 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 6th, 7th, 17th, 27th and 28th meetings, on 15 and 26 October and 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (see A/C.6/62/SR.6, 7, 17, 27 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980);

(b) Report of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission;[1]

(c) Note by the Secretariat on criminal accountability of United Nations officials and experts on mission (A/62/329).

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54* (A/62/54).

07-54576 (E) 281107

5. On the recommendation of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission, the Sixth Committee, at its 1st meeting, on 8 October, established a Working Group to continue the consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300, focusing on its legal aspects, taking into account the views expressed in the Ad Hoc Committee.

6. Also at its 1st meeting, the Sixth Committee elected Ms. Maria Telalian (Greece) as Chairperson of the Working Group. The Committee also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held 4 meetings, on 15, 16, 17 and 23 October.

7. At the 6th meeting, on 15 October, the Chairperson of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission introduced the report of the Ad Hoc Committee; and at the 17th meeting, on 26 October, the Chairperson of the Working Group presented an oral report on the work of the Working Group (see A/C.6/62/SR.6 and 17).

II. Consideration of draft resolution A/C.6/62/L.10

8. At the 27th meeting, on 12 November, the representative of Greece, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission" (A/C.6/62/L.10).

9. At the 28th meeting, on 19 November, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

10. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.10 without a vote (see para. 12).

11. The representative of Canada, also on behalf of Australia and New Zealand, made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/62/SR.28).

III. Recommendation of the Sixth Committee

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation in paragraph 56 of the report of the Special Committee on Peacekeeping Operations[1] that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,

Noting that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,[2]

Recalling its resolution 59/300 of 22 June 2005 endorsing the recommendation of the Special Committee on Peacekeeping Operations[3] that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized without due process,

Reaffirming the need to promote and ensure respect for the principles and rules of international law,

Reaffirming also that the present resolution is without prejudice to the privileges and immunities of United Nations officials and experts on mission and the United Nations under international law,

Reaffirming further the obligation of United Nations officials and experts on mission to respect the national laws of the host State, as well as the right of the host State to exercise, where applicable, its criminal jurisdiction, in accordance with the relevant rules of international law and agreements governing operations of United Nations missions,

Deeply concerned by reports of criminal conduct, and conscious that such conduct, if not investigated and, as appropriate, prosecuted, would create the negative impression that United Nations officials and experts on mission operate with impunity,

Conscious of the importance of protecting the rights of victims of criminal conduct, as well as ensuring adequate protection for witnesses, and noting the work

---

[1] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D.

[2] See A/59/710.

[3] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N.

of the Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse,

Recalling its resolution 61/29 of 4 December 2006, establishing the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,

Noting that the Special Committee on Peacekeeping Operations, in paragraph 75 of its report,[4] looked forward to the conclusions of the Ad Hoc Committee,

Having considered the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300[5] and the report of the Ad Hoc Committee,[6] as well as the note by the Secretariat on criminal accountability of United Nations officials and experts on mission,[7]

Convinced of the need for the United Nations and its Member States to urgently take strong and effective steps to ensure criminal accountability of United Nations officials and experts on mission,

1. *Expresses its appreciation* for the work done by the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission and the Working Group of the Sixth Committee on the same subject;

2. *Strongly urges* States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process;

3. *Strongly urges* all States to consider establishing to the extent that they have not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State;

4. *Encourages* all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their domestic laws and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes;

5. *Requests* the Secretariat to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and

---

[4] A/61/19 (Part II). For the final text, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 19*.

[5] See A/60/980.

[6] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54* (A/62/54).

[7] A/62/329.

behaviour and are aware that certain conduct may amount to a crime for which they may be held accountable;

6. *Urges* the Secretary-General to continue to take such other practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission;

7. *Decides* that the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission shall reconvene from 7 to 9 and on 11 April 2008 for the purpose of continuing the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and the information contained in the note by the Secretariat, and that the work shall continue during the sixty-third session of the General Assembly within the framework of a working group of the Sixth Committee;

8. *Requests* the Ad Hoc Committee to submit a report on its work to the General Assembly at its sixty-third session;

9. *Requests* the Secretary-General to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations are made, and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions;

10. *Also requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution on the basis of information received from Governments, in particular with respect to paragraphs 3 and 9 above;

11. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Criminal accountability of United Nations officials and experts on mission".